



## Legislation Text

---

**File #:** 19-0471, **Version:** 1

---

**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Bruce Moe, City Manager

**FROM:**

Jeffrey W. Gibson, Interim Director of Community Development

Laurie Jester, Planning Manager

Ted Faturos, Assistant Planner

**SUBJECT:**

Consider Adopting a Resolution Regarding an Application to Allow an Office Use on the Ground Floor of a Building Previously Occupied by a Bank at 1419 Highland Avenue (Zebrowski).

**a) CONDUCT PUBLIC HEARING *DE NOVO***

**b) ADOPT RESOLUTION NO. 19-0111 CONDITIONALLY APPROVING THE USE PERMIT**

---

**RECOMMENDATION:**

Staff recommends that after conducting the public hearing, the City Council adopt Resolution No. 19-0111 to conditionally approve the Use Permit.

**FISCAL IMPLICATIONS:**

There are no fiscal implications associated with the recommended action.

**EXECUTIVE SUMMARY:**

The subject site is a vacant building, previously occupied by a bank, on the Southwest corner of Highland Avenue and 15<sup>th</sup> Street, located in the CD Downtown Commercial zone. The applicant proposes to establish a ground floor office use at the site. Any new ground floor office use in the CD zone requires a Use Permit. The applicant is not proposing any changes to the structure that would require a building permit. The Planning Commission approved the Use Permit request on a 4-1 vote, with specific conditions regulating the use of the building's rooftop deck. One Commissioner voted "no" due to concerns of allowing amplified sound on the building's rooftop deck.

Two members of the City Council called up the Planning Commission's decision for review. The Municipal Code provides that the Council review hearing will be conducted as a public hearing *de novo*. *De novo* means that the Council must take a "fresh look" at all the evidence presented at the public hearing and, after the public hearing is closed, base its decision on the evidence presented at the Council hearing.

**DISCUSSION:**

The plans show an existing one-story building consisting of 1,666 square foot proposed office with a

750 square foot existing rooftop deck on a 3,537 square foot lot. The applicant, Brett Zebrowski, is proposing an office use for a ground floor space that occupies the entire building located. The applicant is a local real estate broker who proposed to use the site for his firm's real estate office.

The applicant does not propose any physical changes to the building besides interior paint and the rearranging of office furniture, neither of which requires a permit. The site was previously occupied by a bank (Pacific Premier Bank). The building was extensively altered and remodeled when the bank took over the site in 2012. A retail tenant occupied the building prior to the bank. The existing building meets all requirements for height, setbacks, landscaping, and other development standards. The site has four parking spaces even though there is no required parking for the site.

Manhattan Beach Municipal Code (MBMC) Section 10.16.020 requires a Use Permit for any newly established ground floor office use located in the CD Downtown Commercial zone. The bank occupying the site previously never obtained a Use Permit to establish a ground floor presence, as the bank's presence at the site predates the Use Permit requirement for ground floor office and bank uses. The Use Permit requirement for ground floor bank and office uses in the CD zone was only recently added to the Municipal Code in November 2018 (Ordinance No. 18-0022). A bank use is considered a different land use classification than an office use under MBMC Section 10.08.050.

#### Limiting Office on the Ground Floor- History and Context

After the recession of 2008, several office and bank uses took over vacant ground floor Downtown commercial spaces that were previously occupied by pedestrian-oriented uses (food and beverage sales, retail, interior design, etc.). This phenomenon of office and bank uses occupying more and more ground floor Downtown commercial space, along with other trends, contributed to a concern in the community and among policy makers that the Downtown was losing its small town character and pedestrian-oriented land uses.

One specific concern was that if more and more ground floor pedestrian-oriented uses were being replaced with office and bank uses, the Downtown would lose its energy on weekday evenings and on weekends when offices are typically closed. Furthermore, there was a concern that offices and banks could afford higher rents than most retail business, and an unchecked flood of ground floor office and bank uses could potentially raise the rents in the Downtown area and further limit retail, sales, and other uses.

In response to these concerns, the City started an intensive multi-year process that studied the issues in the Downtown and explored regulatory changes aimed at preserving the Downtown's small town character. This process was eventually centered on the drafting of a Downtown Specific Plan, which was adopted by the City Council December 2016, but then repealed in 2018 after the California Coastal Commission required revisions to both the Plan and the City's Local Coastal Program that the City was not prepared to make.

Arguably the most important and widely agreed upon change the Downtown Specific Plan proposed was to require a Use Permit for any ground floor office use and bank use in the CD zone. The Use Permit process was thought as the City's most effective tool in exercising discretion over where ground floor offices could be located, with the ability to deny requests for locations that perhaps were not well suited for a ground floor office use. Despite repealing the Downtown Specific Plan, the City Council wanted to still be able to review and regulate potential ground floor office uses in the Downtown, and the Code was amended in December 2018 to require a Use Permit for ground floor

office and bank uses in the CD zone. This gave the City the discretion over Downtown ground floor office uses it had sought for several years.

By allowing potential ground floor office uses to apply for a Use Permit, there is an implicit understanding that there could be possible locations where a ground floor office use could be acceptable in the CD zone. Had the City Council wanted to prohibit all ground floor office uses from the CD zone, the Code would have been amended to reflect that policy direction. The question before the City Council then is whether a ground floor office use is an appropriate use at this specific site.

### Planning Commission Review

Staff presented the Use Permit request at the October 9, 2019, Planning Commission meeting. Staff took a neutral position on the Use Permit request and asked the Planning Commission to direct staff to draft a resolution either approving or denying the request. Staff presented to the Planning Commission both positive and negative aspects of the applicant's request:

#### ***Reasons to Approve the Request***

##### ***Low Impact to Neighbors***

Different types of businesses have different types of impacts on neighbors. For instance, restaurants and bars that have late night hours can be noisy, produce large amounts of trash, and generate significant foot and vehicular traffic. An office use, on the other hand, has relatively limited impacts on neighbors due to its operational characteristics. The properties to the west and north of the site all have residential zoning. A low-impact land use like an office use might be considered a more appropriate land use for a site that is located so close to these residential areas.

##### ***Office Use Acts as a "Buffer" and Transition***

The site is on the northernmost edge of the CD Downtown Commercial zone, being the last property zoned CD Downtown Commercial before the zone changes on the northern side of 15<sup>th</sup> Street to RM Residential Medium Density. The properties immediately west of the site are zoned RH Residential High Density. The commercial uses along Highland Avenue become more intensive as one travels south along Highland Avenue from 15<sup>th</sup> Street to Manhattan Beach Boulevard. An office use, as the applicant proposes, could act as a gentle "buffer" between the residential properties surrounding the site and the more intensive commercial uses closer to the core of Downtown Manhattan Beach.

##### ***Impose Conditions on Rooftop Deck***

The Use Permit process is an opportunity to place common sense restrictions on the use of the 750 square foot uncovered rooftop deck by placing conditions related to hours, amplified sound, and other operational characteristics. These regulations could balance the needs of the tenant with the needs of the surrounding neighbors.

The site is not currently governed by a Use Permit, and thus the operations of the rooftop deck are not controlled beyond the rules that restrict any other business. These restrictions include the City's Noise regulations (MBMC Section 5.48), Entertainment Permit requirements (MBMC Section 4.20.050), and Temporary Use Permit requirements (MBMC Section 10.84.110). The Police Department has had four dispatch calls to the site between August 2012 to August 2019, with two of the dispatch calls occurring on the same night. All four dispatch calls were for loud

parties with music, with the calls occurring between 9:00 PM to 10:30 PM on either a Friday or a Saturday.

***Reasons to Deny the Request***

***Gateway to Downtown***

The site is located at the northern gateway to the Downtown, as people traveling south along Highland Avenue see the applicant's site as the first commercial building when entering the Downtown area. One could argue that other uses, such like retail, personal service, or food and beverage sales, would be a more exciting use that could greet people as they entered the Downtown area.

***Pedestrian Oriented Uses***

Pedestrian oriented uses like retail and personal service uses tend to have longer hours and create more foot traffic than office uses. These pedestrian-oriented uses bring more energy to the street than an office use. Office uses that close on the weekends and around 5:00 PM on weekdays can create pedestrian dead zones that break up the energy and rhythm of commercial districts.

The Planning Commission was supportive of the request, believing that the office use was an appropriate use for the location, due to the proximity to residential and the use being on the perimeter, not in the heart, of the Downtown. The Commission asked Staff to return to the October 23, 2019, meeting with a resolution approving the Use Permit request, with specific conditions addressing the use of the rooftop deck.

At the October 23, 2019, Planning Commission meeting a resolution was presented approving the use with conditions on how the rooftop deck is used, as well as other standard conditions. These conditions regulated the use of the rooftop deck, hours, number of people on the rooftop deck, and restrictions on amplified sound, as detailed in the attached Planning Commission Resolution No. 19-14, and as summarized below.

A. Tenant private office related use only. No private parties or gatherings. Use limited to the following hours:

Sunday - Thursday: 9:00 AM - 9:00 PM (Fireworks night allowed until 9:30 PM)

Friday - Saturday: 9:00 AM - 10:00 PM

B. Amplified sound only during the following hours:

Sunday - Thursday: 10:00 AM - 7:00 PM

Friday - Saturday: 10:00 AM - 8:00 PM

C. Maximum 30 people on the deck. (Building Code maximum is 49 people)

The Resolution also had a condition that requires that the majority of the building's windows facing Highland Avenue to not be covered in order to ensure that there is a relationship between the building's interior and pedestrian activity on the street. The Commissioners discussed the conditions regulating the rooftop deck, with the majority of the discussion focused on the number of people allowed on the rooftop deck and the condition regulating amplified sound. Commissioner Thompson

expressed concern about allowing amplified sound on the rooftop deck, but the other Commissioners felt that the Resolution adequately regulated amplified sound on the rooftop deck. The Commission voted 4-1 to approve the Resolution, with Commissioner Thompson voting “no”.

At the November 5, 2019, City Council meeting, two members of the City Council called up the Planning Commission’s decision for review. The Municipal Code provides that the Council review hearing will be conducted as a public hearing *de novo*. *De novo* means that the Council must take a “fresh look” at all the evidence presented at the public hearing and, after the public hearing is closed, base its decision on the evidence presented at the hearing.

#### Required Findings

MBMC Section 10.84.010 states, “Use Permits are required for use classifications typically having unusual site development features or operating characteristics requiring special consideration so that they may be designed, located, and operated compatibly with uses on adjoining properties and in the surrounding area.”

The following findings must be met in order to grant the Use Permit:

1. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located;
2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city;
3. The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located; and
4. The proposed use will not adversely impact nor be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking, noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.

Staff suggests the following findings in support of the Use Permit for the project, as also reflected in the Planning Commission approved Resolution and the attached Draft City Council Resolution:

1. The proposed use, Business and Professional Office, is a commercial use located on a parcel that is on the northern boundary of the Downtown, and immediately adjacent to properties that are zoned and used as residential to the west and across the street to the north, in the CD Downtown Commercial zone.
2. The Business and Professional Office use will be a commercial use consistent with the General Plan’s Downtown Commercial land use designation assigned to the project lot and the neighboring lots. The proposed use is consistent and complimentary with neighboring uses, as many of the neighboring lots have also been developed with commercial uses, and there are residential uses immediately adjacent to the west and to the north across 15<sup>th</sup> Street.

3. The proposed use will be a Business and Professional Office use that complies with all provisions of the Municipal Code's Title 10 Planning and Zoning.
4. The proposed Business and Professional Office, as conditioned, is a low-impact use that generates relatively low levels of noise, traffic, trash, and other negative impacts. The proposed use is also consistent with some of the surrounding uses in the CD Downtown Commercial zone and residential zones.

### General Plan

The General Plan identifies the Downtown Commercial land use as an area "that provides locations for a mix of commercial businesses, residential uses with discretionary review, and public uses, with a focus on pedestrian-oriented commercial businesses that serve Manhattan Beach residents. Visitor-oriented uses are limited to low-intensity businesses providing goods and services primarily to beachgoers."

The project is specifically consistent with General Plan Policies as follows:

LU-5 Protect residential neighborhoods from the intrusion of inappropriate and incompatible uses.

LU-6 Maintain the viability of the commercial areas of Manhattan Beach.

LU-6.2 Encourage a diverse mix of businesses that support the local tax base, are beneficial to residents, and support the economic needs of the community.

LU-7 Continue to support and encourage the viability of the Downtown area of Manhattan Beach.

LU-7.4 Encourage first-floor street front businesses with retail, restaurants, service/commercial, and similar uses to promote lively pedestrian activity on Downtown streets, and consider providing zoning regulations that support these uses.

### **PUBLIC OUTREACH:**

A public notice for the project's December 3, 2019, City Council public hearing was published in the Beach Reporter on Thursday, November 21, 2019, and was also mailed to surrounding property owners on November 19, 2019. As of the writing of this report, staff has received one public comment (see attachment).

### **ENVIRONMENTAL REVIEW:**

The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Sections 15332 based on staff's determination that the project is a small infill development within an urbanized area.

### **LEGAL REVIEW:**

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

### **CONCLUSION:**

The City Council has the following options:

1. Approve the draft resolution, conditionally approving the project;
2. Amend the draft resolution, to conditionally approve the project with additional or different conditions; or
3. Direct staff to draft a resolution containing findings to deny the project.

Staff has drafted a proposed resolution for its consideration.

Staff recommends that after conducting the De Novo public hearing, the City Council adopt Resolution No. 19-0111, conditionally approving the project

**ATTACHMENTS:**

1. Resolution No. 19-0111
2. Proposed Property Plans
3. Planning Commission Resolution No. PC 19-14
4. Planning Commission Meeting Minutes of October 23, 2019
5. Planning Commission Meeting Minutes of October 9, 2019
6. Planning Commission Report, Attachments and Related Material (October 23, 2019)
7. Planning Commission Report, Attachments and Related Material (October 9, 2019)
8. Public Comment